



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,109	03/24/2005	Robert Merk	081249-000000US	1775

20350 7590 07/21/2006

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
----------	--------------

3721

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/529,109

Applicant(s)

MERK ET AL.

Examiner

Michelle Lopez

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/24/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-15 have been canceled.

New claims 16-30 have been added.

Claim Objections

Claims 17-30 are objected to because of the following informalities: in the first line of the claims after “,” --wherein-- should be added. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, the limitation “the working ends” in line 3, lacks antecedent basis. Also, “working ends” is indefinite in that it has not point of reference.

In claim 16, line 5, “at least one tool-insert carrier” is indefinite in that it is not clear if such “tool- insert carrier” refers back to the carriers recited in line 3 of the claim or if it refers to another tool carrier. In line 7, “a positive motion” is indefinite in that it is unclear with respect to what other part of the claim is such “motion” related to. Is that motion a reciprocating/linear motion, a rotatably motion, or any other motion? What is the axis of such motion?

In claims 16 and 18, the functional recitations in line 6 that the cam disk “can be driven” is indefinite in that the scope of the claimed structure that applicant considers to be the invention is unclear. This phrase indicates a function or structure that may or may not happen. The claim is

Art Unit: 3721

written in a narrative format and therefore it is difficult to determine what is the scope of the claimed invention. The claim should be rewritten positively reciting the structure of the invention. Also, in claim 1, “a fixed axis perpendicular to” has no point of reference. What is the reference for “the working stroke direction”?

In claim 16, line 6 “drive member” and in line 9 “whose free end”, lack antecedent basis.

In claim 17, “oscillation angle” and “a plunger displacement” are indefinite in that the angle and the displacement are not tied to any other part of the claim and have no point of reference.

In claim 20, “the lever arm lengths” lacks antecedent basis. Also, “a certain plunger displacement” is indefinite in that it is not clear how this relates to the rest of the claim parts.

In claim 22, “which carries the free end” and “its end” lack antecedent basis.

In claim 23, “that end” lacks antecedent basis.

In claim 25, the relation between the “the pivot axis” and “the rotation axis” is unclear in that such pivot and rotation axis are not tied to any other part of the claim and therefore it is difficult to determine whether they are perpendicular to each other. Also, it is not clear what is meant by “an offset”.

In claim 27 “the region”; and in claim 13 “the curved track”, “the gradient profile for a forward stroke”, and “the gradient profile for a return stroke” lack antecedent basis.

In claim 28, “the curved track” lacks antecedent basis. Also, what is the reference point for such “gradient profiles”, i.e. inclination or slope?

In claim 29, “the top and bottom legs”, the legs of hand pliers” lack antecedent basis. The functional limitation “to be swung down in a lockable manner” renders the claim indefinite in

Art Unit: 3721

that the scope of the claimed structure is unclear. The claim is written in a narrative format and therefore it is difficult to determine what is the scope of the claimed invention. The claim should be rewritten positively reciting the structure of the invention. Also, it is unclear to what other part and how such leg is locked.

In claim 30, “eccentric ball bush” lacks antecedent basis. The limitation “adjustable manner” is indefinite in that such adjustment could be any desired adjustment or position.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18, 20-22, 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Hochhausl 5,463,807.

Hochhausl discloses a tool machine comprising opposite tool carriers 60,70 movable relative to each other, an electric motor 22, a plunger 78, a cam disc 44, a shaft not shown numerically, a rocker 46 (claim 16); a bearing via extending flanges 104 (claim 17); a free end of the rocker 46 being cylindrical in shape and being guided in a sliding manner on the plunger as shown in col. 3; 45-47 (claim 18); the rocker 46 being formed by two lever arms 46,32 (claim 20); the arms being of different length (claim 21); lever arm 46 is shorter than lever arm 32 (claim 22).

As far as claim 28 was understood, it is deemed that Hochhausl shows a curved track via the outer surface of 44,40 having different gradient profiles, i.e. inclinations depending on the position of 184.

With respect to claim 29, Hochhausl teaches a top and a bottom legs wherein it being possible for the bottom leg to be swung down via articulation 172.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochhausl 5,463,807 in view of Chamberlin 5,417,512.

Hochhausl discloses the invention substantially as claimed including a rocker 46, but does not disclose wherein the rocker being of dome-shaped design, and a bearing as an eccentric ball bush having a spherical bearing surface for a spherical segment of the free end of the rocker, and a guide. Chamberlin teaches the concept of a shaft with an end having a dome-shaped design 19,20, a bearing as an eccentric ball bush having a spherical bearing surface 58 for a spherical segment 20 of the free end of the shaft, and a guide 46 to mechanically interconnect relatively moveable parts and to provide a ball to socket fit with essentially zero clearance. It would have been obvious to one having ordinary skill in the art to have provided Hochhausl's rocker as taught by Chamberlin to mechanically interconnect Hochhausl's rocker end and plunger, and to provide a fit between them with essentially zero clearance.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochhausl 5,463,807 in view of Kato 6,000,298.

Hochhausl discloses the invention substantially as claimed as discussed above, but does not specifically disclose wherein the end of the rocker which is in engagement with the cam disc being journal shaped and being mounted in a groove shaped design of the cam disc, wherein the journal shaped end of the rocker rolling on the cam disc via an inner ring having needle rollers. Kato teaches the concept of a rocker via a slider 7 which is in engagement with a cam disc 6 being journal shaped and being mounted in a groove shaped design of the cam disc, wherein the journal shaped end of the rocker rolling on the cam disc via an inner ring having needle rollers (not shown numerically) to convert a rotational motion from a cam mechanism to a reciprocal linear motion of the slider. It would have been obvious to one having ordinary skill in the art to have provided Hochhausl's cam mechanism as taught by Kato to convert rotational motion into reciprocal linear motion.

With respect to claim 25, Kato also shows a pivot axis of the slider 7 perpendicular to a rotational axis a cam disc 7 with respect to the apparatus 2 as shown in Fig. 1B.

Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochhausl 5,463,807 in view of Hadden 4,934,204.

Hochhausl discloses the invention including a working plunger and a stroke plunger which are displaceable relative to each other in a reciprocally working stroke direction, but does not specifically disclose an adjusting device. Hadden shows a crimping tool having a plunger with a working end and a stroke end 144,143 and an adjusting device 70 having threads as shown in Figs. 1 and 6 for the purpose of adjusting the length and force of displacement of the plunger

ends relative to each other. It would have been obvious to one having ordinary skill in the art to have provided Hochhausl's plungers with an adjusting device as taught by Hadden to adjust a reciprocation motion between the plungers.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carpinela, Schmidt, Sekerich, Sauermilch, Yoshieda, Douri, Miyamura, Hagmann, Kamps'001, Schmidt, Samilowitz, Kamps'786, Kamps'438, Harris, and Okuno are cited to show related inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

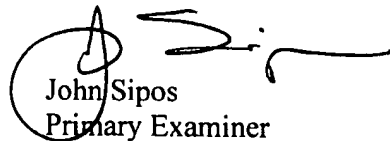
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

Application/Control Number: 10/529,109
Art Unit: 3721

Page 8

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML



John Sipos
Primary Examiner
Art Unit 3721